

The Regulation Committee

Minutes of a virtual meeting of the Regulation Committee held under the Coronavirus Regulations, 2020 on Thursday 14 January 2021 at 10.00am.

Present:

Cllr J Parham (Chair)
Cllr M Caswell
Cllr J Clarke
Cllr S Coles
Cllr N Hewitt-Cooper
Cllr M Rigby
Cllr N Taylor

Other Members Present:

Cllr A Dance
Cllr A Kendall
Cllr M Dimmery
Cllr L Vijeh

The Chair welcomed everyone to the meeting, outlined the meeting procedures, referred to the agenda and papers and highlighted the rules relating to public question time.

1 Apologies for Absence - agenda item 1

Cllr M Keating

2 Declarations of Interest - agenda item 2

Reference was made to the following personal interests of the members of the Regulation Committee published in the register of members' interests which was available for public inspection via the Committee Administrator:

Cllr M Caswell
Cllr J Clarke
Cllr S Coles

Cllr N Hewitt-Cooper

Member of Sedgemoor District Council
Member of Mendip District Council
Member of Somerset West and Taunton Council
Member of Mendip District Council

Cllr M Rigby

Member of Somerset West and Taunton
Council
Member of Bishops Lydeard and
Cothelstone Parish Council

3 **Minutes** - Agenda Item 3

The Minutes of the meeting held on 5 November 2020 were signed as a correct record.

4 **Public Question Time** - Agenda Item 4

(1) There were no public questions on matters falling within the remit of the Committee that were not on the agenda.

(2) All other questions or statements received about matters on the agenda were taken at the time the relevant item was considered during the meeting.

5 **Application Nos. SCC/3742/2020 and SCC/3748/200** - Agenda Item 5

(a) Application No. SCC/3742/2020 - Removal of Condition 2 of Schedule B of Planning Permission 2016/0025/CNT to enable Extraction of Carboniferous Limestone to Recommence within Bartlett's Quarry prior to the Permanent Cessation of Extraction at Torr Works Quarry

(b) Application No. SCC/3748/2020 - Application under Section 106A of the Town and Country Planning Act, 1990 for the Modification of the Torr Works Section 106 Agreement to enable the Recommencement of Carboniferous Limestone Extraction at Bartlett's Quarry at Colman's Quarry Complex, Holwell, Nunney, Frome BA11 4PX.

(1) The Committee considered a report by the Service Manager - Planning and Development on these applications. The applicant sought the removal of restrictions in the form of:

- Condition 2 on the planning permission granted in February 2020 extending the life of Bartlett's Quarry to 2042; and
- the Section 106 Agreement for Torr Works Quarry signed in 2012

both of which prevented the recommencement of extraction of carboniferous limestone or dewatering at Bartlett's Quarry prior to the cessation of extraction at Torr Works Quarry in 2040.

(2) The Case Officer outlined the applications by reference to the report, supporting papers and the use of maps, plans and photographs.

(3) The main issues for consideration were: planning policy and the justification for the proposals; highways and traffic; ecology; and other environmental impacts and their control.

(4) The Case Officer's presentation covered: description of the site; background and planning history; details of the proposals; plans and documents submitted with the applications; Environmental Impact Assessment (EIA); consultation responses from external and internal consultees and the public; the Case Officer's comments on planning policy considerations and the key issues set out in (3) above and matters raised in objections; and the Case Officer's conclusions.

(5) The Case Officer explained that:

- the applicant's justification for the need to reopen Bartlett's Quarry was based on two factors: the predicted increase in demand from London and the south east for rail-based aggregates; and constraints on Torr Works Quarry that limited its ability to meet this demand (through an increase of 1 million tonnes p.a of rail-based output) while maintaining its supply (of 1.8 million tonnes p.a) to local markets by road
- Bartlett's Quarry was subject to an existing set of conditions to avoid or mitigate potential impacts
- extraction had ceased at Bartlett's Quarry in 2007 and part of the site was in use for recycling of aggregates
- 3 million tonnes of reserves remained above the water table
- Bartlett's Quarry was linked to other parts of Coleman's Quarry Complex by tunnels beneath the internal haul roads to allow access to the A361
- the applicant planned to recommence extraction at an annual rate of 900,000 tonnes in parallel with operation of Torr Works Quarry to supply local markets by road
- the reserves of 3 million tonnes would therefore be extracted in just over 3 years

- excavation would take place in two phases, the second phase reducing the quarry to depth of 120 metres AOD, the maximum depth allowed under the planning permission to prevent working below the water table
- the applicant claimed that the reopening of Bartlett's Quarry would create an additional 6 - 8 jobs
- alternative options would require supplying stone from other quarries that would be further away from the markets served which would increase haulage distances and therefore carbon emissions in comparison with using Bartlett's Quarry.

(6) The Case Officer reported that no objections had been received to the applications from most consultees, subject to conditions, amendments to existing conditions and other qualifications/observations. Mells and Wanstrow Parish Councils had objected to the applications while Batcombe Parish Council had expressed concerns about the proposals.

(7) As regards responses to the public consultation, a total of 93 objections had been received from local residents (predominantly from Nunney and Chantry), together with an objection from the developer of a proposed housing site at Nunney.

(8) In his conclusion the Case Officer commented that:

- while there were sound reasons for the restrictions in the 2012 S106 Agreement and their reiteration in the 2020 permission for Bartlett's Quarry, circumstances had changed since 2012 in terms of the policy context and the ability of Torr Works Quarry to assist in maintaining Somerset's supply of aggregates to other regions
- the reopening of Bartlett's Quarry to assist in maintaining road-based supply to local markets was considered the best, most sustainable option which would meet policy tests, and any adverse impacts could be adequately addressed through the proposed conditions.

(9) The recommendations proposed: the granting of a new permission for Bartlett's Quarry that removed Condition 2 and updated other conditions to reflect the latest drawings and environmental scheme; modification of the S106 Agreement to remove the restriction on extraction within Coleman's Quarry - but retaining the restriction on dewatering; a new clause requiring submission of new working and restoration conditions for North, Orchard and Crees Quarries; and a further new clause extending the limit of 3 million tonnes p.a. for road-based output from Torr Works Quarry to include output from Bartlett's Quarry.

(10) The Committee heard from the following, with their comments/views summarised as shown, to which the Case Officer responded:

(i) Chris Potter: who raised a number of points including: No new information since February 2020 to support change of decision; Government statements in 2020 support rejection of the applications; no public evidence of increased demand for crushed rock; insufficient account taken in planning officer's report of National Planning Policy Framework requirement for achieving sustainable development; decision should consider new Government statements and policies since issue of NPPF 2019 and Somerset Minerals Plan 2015, the recommendation should be reviewed and the applications should again be rejected.

(ii) Toby Ingram: who raised a number of points including: no permissions should be granted until there had been a thorough review of the County Council's mineral strategy with full public participation and a strategic study of the national picture; the continued growth of the area should be supported not endangered by the Minerals Plan; current working practices at Whatley Quarry were causing significant distress in Mellis; what would be of more benefit to the future of the area - disruptive quarrying by a distant corporation or the preservation of the environment.

(iii) Clare Martineau: who raised a number of points including: if the applications were approved, the County Council would be breaching its own commitment to residents in the local communities as set out in its own Conditions; Aggregate Industries UK Ltd had not made a case that provided any evidence to support their claim of a demand increase that necessitated the opening of Bartlett's Quarry to run concurrently with Torr Works Quarry; fundamental modifications were suggested to the Clauses in the 2012 S106 Agreement that would remove this same commitment to the communities, not only by AI UK in their supporting statement but now also by the Case Officer in his report; modifications would allow AI UK to make further and sequential planning applications for the other six sites named in that Agreement, with some for sub above ordnance datum quarrying in a flood risk Area; the formal legal challenge in the letter from Michelmores Solicitors.

(iv) Richard Mawer: who raised a number of points including: challenging the evidence for - the increased demand for aggregate requiring the immediate reopening of Bartlett's Quarry; the reopening of Bartlett's Quarry being the most sustainable means of meeting increased demand; any changes occurring since the grant of the 2020 consent that would support the removal of Condition 2; and the

clear economic benefit to local or wider communities through job creation and sustainability and the High Speed 2 rail project; and identifying - further investment in Torr Works Quarry as the solution.

(v) *Michael Gay*: who raised a number of points including: Mendip District Councillor for the Postlebury Ward and councillor responsible for planning at Wanstrow Parish Council: drawing attention to the concerns of parish councils and residents in his ward who were in general not in favour of the applications as they stood, and focusing on: planning balance, amenity, road traffic; hydrology, noise impact, monitoring and conditions relating to previous decisions.

(vi) *Chris Herbert, Planning Manager - South, Aggregate Industries UK Ltd (the Applicant)*: who raised a number of points including: AI UK employed more than 200 people locally, directly and indirectly; reopening of Bartlett's Quarry to serve local road based markets and enable more rail-based exports to national markets from Torr Works Quarry was a key part of its future strategy; Torr Works Quarry's vital role in keeping London and the south-east supplied with aggregates and exporting them by rail being the most sustainable means of transport; growing demand from infrastructure projects such as HS2 which would further increase due to significant infrastructure investment under Government's post Covid-19 recovery plans; no unacceptable impact on local communities or environment (supported by consultees) and no increase in permitted traffic levels or dewatering at Bartlett's Quarry proposed; AI UK's commitment to local engagement; reopening of Bartlett's Quarry being the most sustainable means of meeting increase in demand for aggregates.

The Chair also highlighted that three further public submissions had been received, from Ben Joliffe, Andrew Bramston and Cecilia Hughes on behalf of David Wilson Homes and that these had been circulated to Committee members for consideration before the meeting. The Chair further noted that a letter from Michelmores Solicitors (representing some of the objectors) which claimed that both applications failed to meet statutory and policy requirements and should be refused had also circulated to Committee members again for their consideration before the meeting.

(11) The Committee also heard from Cllr M Dimmery, County Councillor for the Frome East electoral division which bordered the site of the applications who spoke at the Chair's discretion. Cllr Dimmery expressed concern about the implications of the proposals for employment, pollution and road traffic in his division, pointing out that increased rail traffic, though preferable to road transport, was not negative in terms of carbon emissions and noise pollution. Cllr Dimmery also expressed

concern about the impact on the water table; the weakness of the argument that planning restrictions already imposed should not apply due to changes in planning laws in 2020; and the prospect of the County Council failing to meet its own recently adopted Climate Emergency Strategy at the first hurdle.

(12) The Committee proceeded to debate during which members raised matters including:

- the case for and against the applications being hinged on the cumulative impact of the proposals, and the finely balanced nature of the case
- the purpose of Condition 2 being to ensure that recommencement of quarrying would not involve any adverse impacts
- insufficient justification for the proposals and the expectation that the applicant would have a plan to deliver the approved output of 8m tonnes p.a. of aggregate at Torr Works Quarry
- no material changes since Condition 2 had been imposed in February 2020
- the impact of quarrying activities, blasting etc on local residents involving daily disruption
- the effect on groundwater and local water watercourses of quarrying activities
- the use of Bartlett's Quarry being a short-term arrangement which was part of a concerted effort by AI UK to reopen other quarries at the Colman's Quarry Complex
- the possible reopening of Westdown Quarry to the west of Bartlett's Quarry
- inadequate transparency and evidence to support the claim of increasing demand for aggregate
- the Highway Authority's reservations about the proposals, in terms of possible extended use arising from simultaneous operation of Bartlett's and Torr Works Quarries
- no guarantee of HS2 (with whom the applicant had indicated that AI UK had a contract) being included in the Government's post Covid-19 recovery plan
- whether there would be any overall increase in demand for aggregate post Covid
- the proposals being contrary to the County Council's Climate Emergency Strategy
- Mendip carboniferous limestone being a national resource with other regions having the right to draw on the supply (just as Somerset imported stone products from the south-east etc)
- the importance of the quarrying industry in terms of direct and indirect employment and the local economy

- protections and safeguards to mitigate impacts on local communities and environment
- there being no objections from the Highway Authority (net road traffic movements would not increase) or on water management or environmental grounds
- the planning balance in terms of the benefit of both quarries operating concurrently and the harm to local communities and the environment falling on the side of refusing the applications.

(13) In his response the Case Officer reiterated and further explained the information he had given in his presentation concerning: the reasons for supporting the removal of Condition 2; the impacts on groundwater; highways and traffic; evidence of increase in demand for aggregate; and the possible reopening of Westdown Quarry.

(14) Cllr Parham, seconded by Cllr Hewitt-Cooper, moved and the Committee RESOLVED:

(a) that both Application No. SCC/3742/2020 and Application No. SCC/3748/2020 be **REFUSED** as the applicant had provided insufficient evidence that the benefit of the removal of restrictions to allow Bartlett's Quarry and Torr Works Quarry to operate in tandem, would outweigh the harmful cumulative effects on local communities and environment from their concurrent working; and

(b) that in both cases authority to undertake any minor non-material editing which may be necessary to the wording of those reasons be delegated to the Service Manager - Planning and Development.

6. **Application to Add a Bridleway along Fouts Lane in the Parishes of Seavington St Mary and Shepton Beauchamp (573M)**

(1) The Committee considered a report by the Service Manager - Rights of Way on this application for an order to amend the Definitive Map and Statement by adding a bridleway along Fouts Lane in the parishes of Seavington St Mary and Shepton Beauchamp (shown A-B on plan H04-2018 in Appendix 1 to the report). The application was submitted by the South Somerset Bridleways Association.

(2) The Rights of Way Officer outlined the application, with reference to the report, supporting papers and the use of maps, plans and photographs. He added that the investigation sought to establish whether a public right of way already existed over the claimed route, and if so what level of public right, or whether no public

right of way existed and the Definitive Map was already correct and therefore did not need updating.

(3) The report and presentation covered: the content of the application; a description of the route; relevant legislation; documentary evidence; evidence from landowners and those against the application; comments on landowner evidence; consultations and other submissions; discussions of the evidence and included a summary, conclusions and recommendations.

(4) The Rights of Way Officer concluded that a restricted byway could be reasonably alleged to already exist for the following reasons:

- the route used to be capable of carrying vehicular traffic (horse and cart) and there were several documents in favour of it carrying public rights'.
- there was no incontrovertible evidence that public vehicular rights did not exist
- the route could be reasonably alleged to have carried public vehicular rights when considering the evidence all together
- the Natural Environment and Rural Communities Act, 2006 would have extinguished mechanically propelled vehicular rights over this route therefore the rights of a restricted byway remained 'as the highest public right of way'.

(5) The Committee heard from Sarah Bucks, Chair of South Somerset Bridleways Association, expressing support for the recommendation that Fouts Lane be designated as a restrictive byway, indicating that:

- Fouts Lane was part of an old route from Watergore near the Fosseyway at South Petherton to Taunton including Frogmary Lane for which a restricted byway order supported by the same evidence as that for Fouts lane had already been made
- she hoped that the Committee would support the application and that the continuous route could be brought back into use.

(6) The Chair read out a letter from Mr P Kidner, South Petherton resident and local correspondent for South Somerset for the Open Spaces Society who was registered to speak but was unable to attend the meeting. Mr Kidner referred to evidence showing that Fouts Lane had been used within living memory and urged the Committee to restore the whole length of Fouts Lane as a restricted byway.

(7) The Committee then heard from Cllr A Dance, local divisional member, who read out an email from a local resident opposing the application.

(8) The Committee proceeded to debate during which reference was made to the application route forming part of a chain of linked routes and whether applications for other routes forming part of this link were in a position where they could be brought forward for determination. The Rights of Way Officer replied that: each application was considered on its own individual merits irrespective of any links to other routes; the evidence for the application that led to the restricted byway order for Frogmary Lane varied from that in the application now under consideration; and while the application relating to Frogmary Lane had been processed and determined, there was a backlog of other applications for routes in the area which would be dealt with individually when they reached the top of the waiting list.

(9) Cllr J Clarke, seconded by Cllr S Coles, moved the recommendation by the Service Manager - Rights of Way set out in the report.

(10) The Committee **RESOLVED**:

(a) that an order be made the effect of which would be to modify the Definitive Map and Statement by adding a restricted byway over the route shown A-B on plan H04-2018 (i.e. Fouts Lane);

(b) that if there are no objections to such an order, or if all objections are withdrawn, it be confirmed; and

(c) that if objections are maintained to such an order, it be submitted to the Secretary of State for Environment, Food and Rural Affairs.

(The meeting ended at 12.11)

CHAIR